

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1313 of 1987
with
FIRST APPEAL No 1314 of 1992
{With Cross-Objections in both Appeals}

For Approval and Signature:

Hon'ble MR.JUSTICE N.J.PANDYA and

MR.JUSTICE A.R.DAVE

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

STATE OF GUJARAT

Versus

YASHAVANTRAI SHANTILAL SHAH

Appearance:

1. First Appeal No. 1313 of 1987 with Cross-Objections.
Mr.M.R.Anand, GP with Mr.A.J.Desai, AGP for the appellants.
Mr.J.R.Nanavati & A.R.Thakkar, Advocates for Respondent nos. 1 to 18
Mr.M.B.Gandhi, Advocate for Respondent No.19
2. First Appeal No 1314 of 1992 with Cross-Objections.
Mr.M.R.Anand, GP with Mr.A.J.Desai, AGP for the appellants.
Mr.J.R.Nanavati & A.R.Thakkar, Advocates for Respondent nos. 1 to 20
Mr. M.B. Gandhi, Advocate for Respondent No.21

CORAM : MR.JUSTICE N.J.PANDYA and
MR.JUSTICE A.R.DAVE
Date of decision: 16/07/96

ORAL JUDGEMENT : [Per : N.J.Pandya, J]

These two appeals arise out of a common judgment given in two Land Reference Case Nos. 3/78 and 5/78 dealt with by learned Assistant Judge, Rajkot at Morvi by his judgment and award dated 29.3.1985. The learned Trial Judge, after recording evidsence, has held that the claimants are entitled to compensation at the rate of Rs. 7112/ per vigha i.e. Rs. 175/ per sq.ft. Against this finding, the State has come in appeal and for the remaining amount claimed by the claimants, cross-objections have been filed by the claimants.

In our opinion, both the appeals as well as cross-objections must fail. The reason is that the learned Trial Judge had before him considerable documentary evidence led by the claimants. Bearing in mind the fact that notification was under sub-sec.(1) of sec.4 of the Land Acq. Act was dated 16.3.1970, the learned Judge has concentrated on the sale instances of that period. He has rightly considered sale instances pertaining to the smaller area and thereafter born in mind the price fixed by the Morvi Municipality for non-agricultural lands situated in Ward:8 which is nearby the acquired lands. On the top of it, there is an admitted position that in respect of some other group of lands, notification under sec.4 was issued in the year 1970 and those lands holders have approached this Court by way of a writ petition challenging the notification itself. The judgment of the Court was produced before the trial court at exh.56. Having succeeded in getting the said notification cancelled, the acquiring body i.e. GIDC obtained those very lands by private negotiations fixing the price at Rs. 1800/ per vigha.

In our opinion, therefore, the learned trial Judge is right in drawing inference that for the acquisition of the year 1970 when in the year 1978 by negotiations aforesaid price could be paid, it has implications as to the development potentiality and the price that would have been fetched. Reflecting it back to the period of notification in the aforesaid background, when price is fixed at Rs. 175/ per sq.ft., in our opinion, there is no justification to set it

aside.

The same is the position with regard to the cross-objections. The sale instances sought to be relied upon have been dealt with adequately and taking overall view of the position that emerges on record, in our opinion, the learned trial Judge has fixed the aforesaid price correctly and, therefore, there is no scope for increase.

The net result, therefore, is that both the appeals as well as cross-objections are dismissed. Judgment and award of the trial court is confirmed. Under the circumstances, there shall be no order as to costs.

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